

Householders and the use of force against intruders

Joint Public Statement from the Crown Prosecution Service and the Association of Chief Police Officers

What is the purpose of this statement?

It is a rare and frightening prospect to be confronted by an intruder in your own home. The Crown Prosecution Service (CPS) and Chief Constables are responding to public concern over the support offered by the law and confusion about householders defending themselves. We want a criminal justice system that reaches fair decisions, has the confidence of law abiding citizens and encourages them actively to support the police and prosecutors in the fight against crime.

Wherever possible you should call the police. The following summarises the position when you are faced with an intruder in your home, and provides a brief overview of how the police and CPS will deal with any such events.

Does the law protect me? What is 'reasonable force'?

Anyone can use reasonable force to protect themselves or others, or to carry out an arrest or to prevent crime. You are not expected to make fine judgments over the level of force you use in the heat of the moment. So long as you only do what you honestly and instinctively believe is necessary in the heat of the moment, that would be the strongest evidence of you acting lawfully and in self-defence. This is still the case if you use something to hand as a weapon.

As a general rule, the more extreme the circumstances and the fear felt, the more force you can lawfully use in self-defence.

What amounts to disproportionate force? I've heard I can use that.

The force you use must always be reasonable in the circumstances as you believe them to be. Where you are defending yourself or others from intruders in your home it might still be reasonable in the circumstances for you to use a degree of force that is subsequently considered to be disproportionate, perhaps if you are acting in extreme circumstances in the heat of the moment and don't have a chance to think about exactly how much force would be necessary to repel the intruder: it might seem reasonable to you at the time but with hindsight, your actions may seem disproportionate. The law will give you the benefit of the doubt in these circumstances.

This only applies if you were acting in self-defence or to protect others in your home and the force you used was disproportionate – disproportionate force to protect property is still unlawful.

I've heard that I can't use grossly disproportionate force. What does that mean?

If your action was 'over the top' or a calculated action of revenge or retribution for example, this might amount to grossly disproportionate force for which the law does not protect you. If for example you had knocked an intruder unconscious and then went on to kick and punch them repeatedly such an action would be more likely to be considered grossly disproportionate.

Do I have to wait to be attacked?

No, not if you are in your own home and in fear for yourself or others. In those circumstances the law does not require you to wait to be attacked before using defensive force yourself.

What if the intruder dies?

If you have acted in reasonable self-defence, as described above, and the intruder dies you will still have acted lawfully. Indeed, there are several such cases where the householder has not been prosecuted. However, if, for example:

- having knocked someone unconscious, you then decided to further hurt or kill them to punish them; or
- you knew of an intended intruder and set a trap to hurt or to kill them rather than involve the police,

you would be acting with very excessive and gratuitous force and could be prosecuted.

What if I chase them as they run off?

This situation is different as you are no longer acting in self-defence and so the same degree of force may not be reasonable. However, you are still allowed to use reasonable force to recover your property and make a citizen's arrest. You should consider your own safety and, for example, whether the police have been called. A rugby tackle or a single blow would probably be reasonable. Acting out of malice and revenge with the intent of inflicting punishment through injury or death would not.

Will you believe the intruder rather than me?

The police weigh all the facts when investigating an incident. This includes the fact that the intruder caused the situation to arise in the first place. We hope that everyone understands that the police have a duty to investigate incidents involving a death or injury. Things are not always as they seem. On occasions people pretend a burglary has taken place to cover up other crimes such as a fight between drug dealers.

How would the police and CPS handle the investigation and treat me?

In considering these cases Chief Constables and the Director of Public Prosecutions (Head of the CPS) are determined that they must be investigated and reviewed as swiftly and as sympathetically as possible. In some cases, for instance where the facts are very clear, or where less serious injuries are involved, the investigation will be concluded very quickly, without any need for arrest. In more complicated cases, such as where a death or serious injury occurs, more detailed enquiries will be necessary. The police may need to conduct a forensic examination and/or obtain your account of events.

To ensure such cases are dealt with as swiftly and sympathetically as possible, the police and CPS will take relevant measures namely:

- An experienced investigator will oversee the case; and
- If it goes as far as CPS considering the evidence, the case will be prioritised to ensure a senior lawyer makes a quick decision.

It is a fact that very few householders have ever been prosecuted for actions resulting from the use of force against intruders.

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